



# Announcement

August 28, 2012

## Notice on Sixth Circuit Court Decision on Roll-Your-Own Cigarette Machines

On August 20, 2012, the United States Court of Appeals for the Sixth Circuit issued a decision in *RYO Machine Rental, LLC v. TTB*, No. 11-3163, vacating a lower court's injunction related to TTB's enforcement of its ruling that determined retailers who made cigarette-making machines available for the use of their customers in making cigarettes to be "manufacturers of tobacco products." See TTB Ruling 2010-4 (Sept. 30, 2010). Additionally, the injunction delayed TTB's implementation of the Moving Ahead for Progress in the 21st Century Act (Public Law No. 112-14.1) ("MAP-21").

In vacating the lower court's injunction, the Sixth Circuit held that MAP-21 definitively settles the legal status of retailers that provide cigarette-making machines to customers as manufacturers of tobacco products. Moreover, the Court ordered that the case challenging the enactment of TTB Ruling 2010-4 be dismissed because Federal law bars pre-emptive challenges to the validity of a tax, including the acquisition of a tobacco manufacturer permit issued under the Internal Revenue Code of 1986 ("IRC").

Under MAP-21, any person who for commercial purposes makes available for consumer use a machine capable of making tobacco products (including cigarettes) is a manufacturer of tobacco products. Manufacturers of tobacco products must comply with all applicable statutory and regulatory requirements, including, but not limited to:

- Obtaining a permit before engaging in business;
- Obtaining a bond and paying special (occupational) tax;
- Complying with recordkeeping, reporting, and inventory requirements; and
- Filing returns and paying the applicable taxes.

It is against the law to manufacture tobacco products without a permit. **Anyone manufacturing tobacco products without a permit risks civil and/or criminal liability.** For additional information, please see [Frequently Asked Questions about "Roll-Your-Own Cigarette Machines" and Other Machines for Making Tobacco Products.](#)

Qualified manufacturers of tobacco products, may, under the IRC, obtain roll-your-own tobacco and cigarette papers or tubes without payment of tax for use in the manufacture of cigarettes. TTB recognizes that the injunction prevented businesses from obtaining a tobacco product manufacturer's permit from TTB. Guidance related to permits for tobacco product manufacturers is available at <http://www.ttb.gov/tobacco/tobacco-permits.shtml>. TTB will provide additional guidance on payment of special (occupational) tax and excise taxes as soon as possible. For those who wish to apply for a permit, such applications will be handled in a manner consistent with how TTB administers all applications for those seeking permits to operate as manufacturers of tobacco products. You may submit your application electronically by using TTB's [Permits Online](#) system.

Questions about permit applications may be directed to TTB's National Revenue Center at 1-877-882-3277.